

**Remarks/Arguments:**

Claims 23, 59-62, and 95-99 are pending in the above-identified application. Claims 23, 59-62, and 95-98 stand rejected. By the present Amendment, claims 23, 59-62, and 95-98 are amended and new claim 99 is added.

**Rejections Under 35 U.S.C. § 112, Second Paragraph**

Claims 96-98 are rejected under 35 U.S.C. §112, second paragraph, for allegedly being indefinite. In particular, the Office Action disapproves of the term "great." Although not conceding the rejection, Applicants amend claims 96-98 by the present Amendment to expedite prosecution. Namely, Applicants amend these claims to remove the recitations of "great" disapproved by the Office Action and replace them with recitations involving threshold values.

**Rejection of Claim 23 Under 35 U.S.C. § 102(e)**

Claim 23 is rejected under 35 U.S.C. §102(e) for allegedly being anticipated by U.S. Patent No. 5,918,002 to Klemets et al. ("Klemets"). Although not conceding the rejections. Applicants have amended independent claim 23 to expedite prosecution. It is respectfully submitted that claim 23 is patentable over Klemets for the reasons set forth below.

In particular, amended claim 23 recites features that are neither disclosed nor suggested by Klemets, namely:

transmitting portions of the encoded information **when the priority of the portions of the encoded information satisfies the priority threshold** and not transmitting other portions of the encoded information **when the priority of the other portions of the encoded information does not satisfy the priority threshold** to thin the transmitted encoded information

when (1) an actual transfer rate of the transmitted portions of the encoded information exceeds a target transfer rate or (2) a decision is made that a writing of the portions of the encoded information into a transmitting buffer is delayed, the decision being based on a result of comparing an elapsed time after start of transmission with a time added to the encoded information, the added time indicating when the portions of the encoded information are to be decoded or output, **adjusting the priority threshold to reduce a size of a**

**further portion of the encoded information to be transmitted,**  
thereby further thinning the encoded information that is  
transmitted.

These features are found in the originally filed application at page 39, lines 1-9 and page 42, lines 4-19. No new matter has been added.

I. FIGS. 5A, 5B, 6B of Klemets Do Not Teach Priority Thresholds

The Office Action, at page 3, lines 2-3, contends that Figs. 5A, 5B and 6B of Klemets disclose the "priority threshold" recited in claim 23. Although not clear from the Office Action, Applicants believe that the Office Action is interpreting the "DEC\_BW\_THRESHOLD" illustrated in Figs. 5A, 5B and 6B of Klemets and the "INC\_BW\_THRESHOLD" illustrated in Figs. 5A and 6B of Klemets as describing the "priority threshold" recited in claim 1. For the reasons discussed below, Applicants respectfully contend that DEC\_BW\_THRESHOLD and INC\_BW\_THRESHOLD do not teach all of the features relating to the "priority threshold" recited in the step of "transmitting" recited in claim 23.

Fig. 2 of Klemets illustrates a system for providing video on demand from a stream server 220 to a client computer 240. (See col. 5, lines 15-21.) In one embodiment of the system, client computer 240 "dynamically adjusts the transmission rate of the data stream to optimize usage of the bandwidth capacity of the network connection." (See col. 6, lines 35-38.) Fig. 4 illustrates steps by which the transmission rate is altered by client computer 240. (See col. 6, lines 40-43.) Figs. 5A-5E illustrate, in more detail, various sub-steps of the steps illustrated in Fig. 4. (See col. 6, lines 55-56.)

As can be seen in Fig. 4 of Klemets, Step 420 is a step in which a determination of whether to decrease the bandwidth is made. Fig. 5B illustrates the exemplary sub-steps for Step 420. In Step 522 of Fig. 5B, if it is determined that "PLAYTIME" is less than "DEC\_BW\_THRESHOLD" (and other determinations are made in steps 524, 526, and 528), the bandwidth may be decreased. (See col. 8, line 63 - col. 9, line 3 and Fig. 5B.) Also in Step 522, if it is determined that either "ROUND\_TRIP\_TIME\_BIT" or "LOSSRATE\_BIT" are high, the bandwidth may also be

decreased. (See col. 8, line 63 - col. 9, line 3 and Fig. 5B.) Figs. 6A and 6B illustrate various steps used to compute DEC\_BW\_THRESHOLD.

Step 440 illustrated in Fig. 4 is a step in which a determination of whether to increase the bandwidth is made. Fig. 5D illustrates the exemplary sub-steps for Step 440. In Step 541 of Fig. 4D, if it is determined that "PLAYTIME" is greater than "INC\_BW\_THRESHOLD" (and other determinations in other sub-steps are made), the bandwidth may be increased. (See col. 10, lines 3-53.) Figs. 6A and 6B illustrate various steps used to compute INC\_BW\_THRESHOLD.

Although Klemets is not very clear as to what the INC\_BW\_THRESHOLD and DEC\_BW\_THRESHOLD represent, Klemets does illustrate that they are limits against which the PLAYTIME is compared to determine whether the PLAYTIME is too low or too high. Thus, they are involved with a determination of whether the transmission rate (bandwidth) should be adjusted. They do not appear to be priority thresholds that are used to determine whether particular portions of data should be transmitted or not transmitted. Thus, Applicants respectfully contend that DEC\_BW\_THRESHOLD and INC\_BW\_THRESHOLD do not disclose the features of "transmitting portions of the encoded information when the priority of the portions of the encoded information satisfies the priority threshold and not transmitting other portions of the encoded information when the priority of the other portions of the encoded information does not satisfy the priority threshold to thin the transmitted encoded information," recited in claim 23.

## II. Klemets Does Not Teach Adjusting Priority Thresholds

The Office Action also contends that Figs. 8-11, col. 6, lines 3-18, and col. 7, line 8+ of Klemets discloses adjusting a "priority threshold." (See Office Action page 3, lines 4-6.) Applicants respectfully disagree.

Fig. 8 of Klemets illustrates various steps performed in computing ROUND\_TRIP\_TIME\_BIT. (See col. 8, lines 19-21.) Figs. 9 and 10 illustrate various steps performed in computing LOSS\_RATE\_BIT. (See col. 8, lines 35-62.) As Applicants noted above, ROUND\_TRIP\_TIME\_BIT and LOSS\_RATE\_BIT are used to determine whether the bandwidth should be decreased. (See Fig. 5B.) ROUND\_TRIP\_TIME\_BIT and LOSS\_RATE\_BIT are not priority thresholds that are used

to determine whether particular portions of data should be transmitted or not transmitted. Thus, they do not disclose the features of "adjusting the priority threshold to reduce a size of a further portion of the encoded information to be transmitted," recited in claim 23.

Col. 6, lines 3-18 of Klemets describe features relating to adjusting transmission rates. This description does not teach the feature of "adjusting the priority threshold to reduce a size of a further portion of the encoded information to be transmitted," recited in claim 23, for reasons similar to those presented in the previous paragraph.

Col. 7, line 8+ sets forth the description of steps for calculating DEC\_BW\_THRESHOLD and INC\_BW\_THRESHOLD. As discussed above, these variables do not disclose priority thresholds that are used to determine whether particular portions of data should be transmitted or not transmitted. Therefore, they also do not disclose the feature of "adjusting the priority threshold to reduce a size of a further portion of the encoded information to be transmitted," recited in claim 23.

### III. Conclusion on the Rejection of Claim 23

In view of the foregoing, Applicants respectfully contend that the portions of Klemets cited in the Office Action against claim 23 do not disclose the above-discussed features of claim 23. Accordingly, Applicants respectfully request that the rejection of claim 23 be withdrawn and that the claim be reconsidered.

### **Rejections of Claims 59-62 and 95-98 under 35 U.S.C. § 102(e)**

Claims 59-62 and 95-98 are rejected under 35 U.S.C. §102(e) for allegedly being anticipated by Klemets. Claims 59-62 and 95, while not identical to claim 23, include feature similar to claim 23. Accordingly, Applicants respectfully contend that the portions of Klemets cited in the Office Action against claims 59-62 and 95 do not disclose all of the features of claims 59-62 and 95 for at least the same reasons as discussed above with respect to claim 23 and respectfully request that these rejections be withdrawn. Favorable reconsideration is respectfully requested.

Claims 96-98 respectfully depend from claims 23, 59, and 61 and therefore include all of the features of the claims from which they depend. Accordingly, Applicants respectfully contend that the portions of Klemets cited in the Office Action against claims 96-98 do not disclose all of the features of claims 96-98 for at least the same reasons as discussed above with respect to claim 23 and respectfully request that these rejections be withdrawn. Favorable reconsideration is respectfully requested.

#### **New Claim**

By the present Amendment, Applicants submit a new claim 99. Support for claim 99 may be found throughout the application and, particularly, at page 39, lines 1-24. Because claim 99 depends from claim 23 and thereby includes all of the features of claim 23 and because claim 99 recites further features relating to the "priority threshold," for at least the same reasons as presented above with respect to claim 23, Applicants respectfully contends that the portions of Klemets cited in the Office Action do not disclose all of the features of claim 99. Favorable consideration is respectfully requested.

#### **Conclusion**

In view of the foregoing, Applicants respectfully contend that the application is in condition for allowance and request early notification to that effect.

Respectfully submitted,

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Dated: September 10, 2007

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MJC\_174077\_1